



6712-01

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 11-189; FCC 11-169]

Standardizing Program Reporting Requirements for Broadcast Licensees

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document seeks comment on a proposal to replace the issues/programs list that television stations must place in their public file with a streamlined, standardized disclosure form that will be available to the public online. The FCC's goal is to make it easier for the public to learn about how television stations serve their communities, and to make broadcasters more accountable to the public, by requiring stations to provide easily accessible programming information in a standardized format. This standardized disclosure will also assist the FCC and researchers to study and analyze how broadcasters respond to the needs and interests of their communities of license. The FCC seeks to address many of the shortcomings that have been attributed to the form adopted in the 2007 Enhanced Disclosure Report and Order, which we have vacated in a separate Order on Reconsideration and Further Notice of Proposed Rulemaking.

DATES: Comments are due [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] and reply comments are due [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by MB Docket No. 11-189, by any of the following methods:

- Federal Communications Commission's Web Site: <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail:

FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Holly Saurer, Media Bureau, Policy Division, 202-418-7283, or Kim Matthews, Media Bureau, Policy Division, 202-418-2154.

SUPPLEMENTARY INFORMATION:

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand

deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Below is a synopsis of the Commission's Notice of Inquiry in MB Docket No. 11-189, adopted November 11, 2011 and released November 14, 2011.

Synopsis of Notice of Inquiry

I. INTRODUCTION

1. In this Notice of Inquiry (NOI), we seek comment on a proposal to replace the issues/programs list that television stations have been required to place in their public files for decades with a streamlined, standardized disclosure form that will be available to the public online. Our goal is to make it easier for members of the public to learn about how television stations serve their communities, and to make broadcasters more accountable to the public, by requiring stations to provide easily accessible programming information in a standardized format. This standardized disclosure will also assist the Commission and researchers to study and analyze how broadcasters respond to the needs and interests of their communities of license. We seek to address many of the shortcomings that have been attributed to the form adopted in the 2007 Enhanced Disclosure Report and Order, 73 FR 13452, March 13, 2008, which we have vacated in a separate Order on Reconsideration and Further Notice of Proposed Rulemaking

(FNPRM) in MB Docket No. 00-168, FCC 11-162, rel. Oct. 27, 2011. While we have vacated the 2007 Report and Order, we continue to believe that the creation and implementation of a standardized form is beneficial and worthy of pursuing. In this NOI, we propose to require broadcasters to report on their programming using a sample-based methodology and we also seek comment on a more limited number of reporting categories. We propose to limit this disclosure form requirement to television licensees at this time.

2. In the Enhanced Disclosure FNPRM, we seek comment on a proposal to make television broadcasters' public inspection files accessible online, in a new database to be hosted by the Commission. Our objective in this NOI is to develop a standardized form that will be included in the new online public file. We note that we are addressing only the standardized form requirement in this NOI. Due to the complexity of the issues surrounding the standardized form, we have opened this new docket to address these issues specifically. The existing Enhanced Disclosure docket, MM docket number 00-168, will now be dedicated to addressing the proposed online public file requirement. Given the value of the comments previously filed in that proceeding regarding the standardized form issues, however, we will incorporate that record into this proceeding. We ask commenters to file their comments regarding the online public file requirement in response to the Enhanced Disclosure FNPRM, docket 00-168, and comments regarding the standardized form in this docket. We remain committed to the implementation of a standardized form, and seek to do so expeditiously. We seek comments in this proceeding that will assist us in crafting a form that is beneficial and workable for those using and drafting the forms.

II. BACKGROUND

3. One of a television broadcaster's fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license. In 1984, the Commission adopted the current issues/programs list requirement, which requires a station to

place in its public inspection file “every three months a list of programs that have provided the station’s most significant treatment of community issues during the preceding three month period.” This issues/programs list must include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment, together with the time, date, duration, and title of each program in which the issue was treated. In adopting the issues/programs list requirement for television stations, the Commission expected the list to be “[t]he most significant source of issue-responsive information under the new regulatory scheme.” Moreover, the list was intended to be a significant source of information for any initial investigation by the public or the Commission when renewal of the station’s license was at issue. In 1998, the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters issued its Final Report. The Advisory Committee Report determined that “[e]ffective self-regulation by the broadcast industry in the public interest requires the availability to the public of adequate information about what a local broadcaster is doing.” The Committee recommended that the currently required lists of issue-responsive programming and children’s programming be augmented by including more information about stations’ public interest programs and activities, and it put forward a sample standardized form that could be used to that end.

4. In 2000, the Commission issued the Enhanced Disclosure Notice of Proposed Rulemaking, 65 FR 62683, October 19, 2000, which grew out of a prior Notice of Inquiry, 65 FR 4211, January 26, 2000, exploring the public interest obligations of broadcast television stations as they transitioned to digital. The Commission tentatively proposed to require television stations to use a standardized form to report on how they serve the public interest. In making this proposal, the Commission noted the difficulties that members of the public had encountered in accessing programming information under the existing issues/programs list requirement, given the lack of a standardized reporting mechanism. The Commission suggested that the use of a standardized

disclosure form would facilitate access to the issues/program information and would make broadcasters more accountable to the public. It also observed that a standardized form would benefit the public by reducing the time needed to locate information and by providing the public with a better mechanism for reviewing broadcaster public interest programming and activities.

5. In 2007, the Commission adopted a Report and Order in the Enhanced Disclosure proceeding requiring television broadcasters to replace their issues/programs lists with Standardized Television Disclosure Form 355 and to post the completed forms online. The Commission found that uniform and consistent programming lists would allow the public more effectively to compare the efforts of various stations, and assess the programming aired. The Commission anticipated that the online posting of such forms would give rise to a more active dialogue between licensees and their audiences, which in turn would lead to more programs that are responsive to issues important to local communities. The Commission determined that standardized disclosure would also provide useful information for assessing the effectiveness of current Commission policies. The 2007 standardized disclosure form, Form 355, required each station to submit a comprehensive list of any programs or program segments it aired every quarter that fell into specific categories. The categories included: national news, local news, local civic affairs, local electoral affairs, independently produced programming, local programming, public service announcements, paid public service announcements, programming that meets the needs of underserved communities, religious programming, efforts undertaken to determine the programming needs of the community, service for persons with disabilities, and current emergency information. The Commission found that the benefits derived from public disclosure of such a comprehensive list of programming outweighed the burden that the requirement placed on broadcasters.

6. Following the release of the Report and Order, several industry petitioners raised a number of issues regarding the standardized form, generally contending that it was vague, overly complex,

and burdensome. Public interest advocates also filed petitions for reconsideration, arguing that the standardized form should be designed to facilitate the downloading and aggregation of data for researchers. They also asked the Commission to conduct periodic audits of data accuracy to ensure the removal of incorrect data, reassess whether the system is providing information in a useful format, and seek ongoing input from researchers on its staff and outside the Commission to ensure that the system is implemented in a useful and user-friendly manner. In addition, five parties sought court review of the Report and Order, and the cases were consolidated in the United States Court of Appeals for the D.C. Circuit. The D.C Circuit granted a petition to hold the court proceeding in abeyance while the Commission reviewed the petitions for reconsideration. Challenging the 2007 rules in a third forum, several parties opposed the information collection contained in the Report and Order at the Office of Management and Budget (OMB) under the Paperwork Reduction Act. Because the Commission determined that it would need to revise the rules on reconsideration, it did not transmit the information collection and form to OMB, and therefore the rules and form have never gone into effect.

7. In June 2011, a working group including Commission staff, scholars and consultants released “The Information Needs of Communities” (INC Report), a comprehensive report on the current state of the media landscape. The INC Report discussed both the need to empower citizens to ensure that broadcasters serve their communities in exchange for the use of public spectrum, and also the need to remove unnecessary burdens on broadcasters who aim to serve their communities. The INC Report provided several recommendations relevant to this proceeding, including replacing the enhanced disclosure standardized form adopted in 2007 with a streamlined, web-based form through which broadcasters could provide programming information based on a composite or sample period.

8. In a separate Order on Reconsideration and FNPRM, we vacated the form adopted in the Report and Order. We determined that we should reexamine the determinations made in the

Report and Order in light of the arguments raised in the petitions for reconsideration and given that the record upon which those rules were adopted does not reflect the rapid technological advances that have occurred since the proceeding was commenced in 2000. We now seek to address many of the criticisms directed at the standardized form adopted in the Report and Order.

III. DISCUSSION

A. Standardized Form

9. In the Report and Order, the Commission sought to address the systemic problem that the public lacked access to consistent and uniform information about television broadcasters' programming, as identified in the Advisory Committee Report and the record of the proceeding. We remain dedicated to addressing this problem. Nonetheless, the reconsideration petitions we received from broadcasters and public interest advocates and the responses thereto have persuaded us to reexamine the balance the Commission struck in 2007 between public access to programming information and the burden providing such information imposes on broadcasters. Although we have vacated the 2007 Report and Order and dismissed the petitions for reconsideration of that order, we believe that some of the proposals developed in the Enhanced Disclosure proceeding are worth further consideration. In addition, to the extent that the arguments made in the petitions for reconsideration are relevant and can inform this new NOI, we discuss them below. We also seek comment on INC Report proposals and other proposals to ensure that the public has standardized information about how broadcasters are serving their communities, while also avoiding placing unnecessary burdens on broadcasters.

10. We continue to believe that the use of a standardized disclosure form will facilitate access to information on how licensees are serving the public interest and will allow the public to play a more active role in helping a station meet its obligation to provide programming that addresses the community's needs and interests. The issues/programs list required under the current rules, while providing some information to the public and establishing a record of some of a station's

community-oriented programming, suffers from several drawbacks, including a lack of uniformity and consistency in the way broadcasters maintain the lists. This makes effective access to the program information and assessment of a broadcaster's program performance extremely difficult. A standardized disclosure form could address these concerns, and in view of advances in technology and the revisions to the form we discuss here, should not impose unwarranted burdens of broadcasters. A standardized disclosure form will make broadcasters more accountable to the public, and improving broadcaster accountability to the public will minimize the need for government involvement in monitoring how broadcasters comply with their public interest obligations. A standardized disclosure will significantly reduce the time needed to locate information sought by the public and will provide the public with a better mechanism for reviewing a broadcaster's public interest programming and activities. Placing the new standardized form online, instead of merely on paper in the broadcasters' offices, will make it far easier for the public to review the information. We seek comment on these tentative findings.

11. We disagree with the reconsideration petitioners in the 2007 Enhanced Disclosure proceeding who argue that there is no need for the Commission to adopt a standardized form. The record in the Enhanced Disclosure docket, which is incorporated in this proceeding, demonstrates that “[t]he lack of uniformity and consistency of the issues/program lists make it difficult to discern both how much and what types of public interest programming a broadcaster provided,” which makes any “overall assessment or comparison between broadcasters virtually impossible.” Commenters in the Enhanced Disclosure proceeding identified the benefits of a standardized form, including enhanced access to information on the extent to which broadcasters are meeting their public interest obligations, ease of use by the public and broadcasters alike, and the promotion of a dialog between stations and the public they serve. Moreover, the Report and Order noted that the record of the Localism proceeding — especially that portion amassed during

a series of public hearings conducted across the country — suggested that there may be a communications breakdown between licensees and their communities concerning the breadth of their efforts to air programming that serves their licensed communities' local needs and interests. Written comments submitted in the Localism docket and testimony received during several localism field hearings indicated that many members of the public are not fully aware of the community-responsive programming that their local stations air. The Report and Order noted that affording the public improved access to information about a station's programming through the use of a standardized disclosure form would foster a better understanding of stations' localism efforts within their communities. The Report and Order also noted that by enhancing a dialogue with viewers as a result of improved public access to such information, the standardized disclosure form could assist the Commission in determining whether the licensees are serving the public interest. Finally, the Report and Order further noted that the standardized disclosure form would provide information that will be useful to the Commission and the public in assessing the effectiveness of current Commission policies governing television broadcasting. We agree with the Commission's prior findings regarding the benefits of a standardized form. We note that technological advances have made it possible for the public to review data much more easily via the Internet, but we believe the efficacy of such disclosures is much greater when the information is offered in a standardized format. We seek comment on these findings.

12. We have seen no evidence that broadcasters have attempted to change their issues/programs reporting to become more consistent or uniform since the Commission launched this proceeding in 2000. In fact, the recently released INC Report discusses consistency and uniformity problems similar to those identified in the Commission's prior proceeding, and supports the continuing need for a standardized form. We continue to believe that a standardized form is necessary and should replace the current issues/programs list. We seek comment on this tentative finding.

13. We are persuaded by petitioners in the Enhanced Disclosure proceeding who argued that Form 355 as adopted in the Report and Order was overly burdensome. We propose changes to that form, as discussed below, to substantially reduce the burden it imposes on broadcasters. These changes include adopting a sample approach to reporting and streamlining the information that must be included in the form. We welcome any other proposals that will lead to effective disclosure by broadcasters of the ways in which they serve the public.

1. Reporting Period

14. Form 355 as adopted in the Report and Order required television broadcasters to report quarterly on every relevant program or program segment aired for each program category listed in the Form. We agree with the reconsideration petitioners who argued that requiring reporting on all programming in those categories would be unduly burdensome.

15. Some petitioners asserted that the Commission could lessen the burden on licensees while providing adequate disclosure of licensees' public interest programming by restricting reporting to one week per quarter. As noted, the INC Report similarly recommends that the Commission consider requiring information drawn from only a sample or composite week of programming on a quarterly basis, rather than requiring a comprehensive listing of all relevant programs throughout the year. A constructed or composite week is a sampling method in which individual days are selected at random by the Commission to construct a week that contains different days of the week from different weeks of the quarter. First, a Sunday is randomly selected from all possible Sundays in the quarter. Then, a Monday is selected in the same way, and so on. The Commission has used a composite week reporting approach in the past. In the 1970s, the Commission authorized the staff to act, through delegated authority, on applications for renewal of radio and television stations that aired specified amounts of certain programming. Failure to satisfy the guidelines, based on a composite broadcast week analysis, resulted in the referral of a licensee's renewal application to the full Commission for its consideration.

16. We believe that a sample approach to reporting would provide sufficient information to the public, without unduly burdening broadcasters, and seek comment on this approach. How could a composite week or weeks be structured for reportable programming? For example, how many days of programming should be included in the reporting requirement for each quarter? We seek comment on how to implement a random selection. Are there are certain distortions to the average programming day, such as sweeps week, that should be excluded? Alternatively, would it be less burdensome for broadcasters to compile information for one or more full weeks during the quarter? What would be the advantages and disadvantages of each approach?

17. In a recent *ex parte* in the Enhanced Disclosure proceeding, the Public Interest, Public Airwaves Coalition (PIPAC) proposes that broadcasters be required to submit data for two constructed or composite weeks per quarter that are selected by the Commission. Under PIPAC's proposal, broadcasters would be obligated to report on programming categories aired during the randomly selected days comprising the two constructed weeks per quarter. PIPAC attaches a statement from a coalition of academics with expertise in media sampling that says that a constructed week, if implemented properly, has methodological validity for academic research and would provide a snapshot of programming for the public. We seek comment on this proposal. In particular, is two constructed weeks the appropriate time period over which to collect programming information? Would one week provide the public and research community with a sufficient sampling period, while lessening the burdens placed on broadcasters that have to compile this information? How should we balance the burdens on broadcasters against the need for a methodologically valid approach that will accurately reflect the reportable programming that broadcasters provide to their community of license? If any period less than two weeks is too little time to be valid or accurate, would that undermine the purpose of the reporting requirement?

18. Notice. If we decide to take a composite approach or to select a particular week or weeks for reporting purposes, we will need to determine how and when to notify broadcasters which days are included, and whether such notice should be provided before or after the selected date. We seek comment on how and when to provide such notice. If we adopt a composite week or weeks approach, should the Commission inform the broadcasters that a date has been selected to be part of a composite week on the following day? Alternatively, should the Commission release the reporting dates at the end of the quarter, or would this needlessly require broadcasters to retain programming information for every day in the quarter? How long do licensees retain tapes or other records of their programming in the ordinary course of business? Would it be preferable to announce on a weekly or bi-weekly basis what reporting dates were selected for those weeks? Alternatively, if the Commission were to select a particular week or weeks for reporting, should it be announced at the end of the quarter or immediately after the selected week or weeks? We seek comment on these and other implementation issues and concerns.

19. In petitions for reconsideration of the Report and Order, industry petitioners proposed that the Commission notify stations a few days before the selected reporting dates in order to provide sufficient notice about when broadcasters should start logging the information needed to complete the form. In contrast, PIPAC recommends that broadcasters not be given advance notice of the reporting dates to prevent broadcasters from changing their programming and thereby “gaming the system.” PIPAC recommends that the Commission select the relevant reporting dates at the beginning of the quarter and then announce each reporting date the morning after the selected day. They argue that, because most broadcasters maintain a tape of their programming for a short time after broadcast, immediate notification of a reporting date should offer ample notice without giving advance warning that would taint the quality of the sample. We seek comment on these approaches or recommended alternatives.

20. Exceptions to composite reporting. We seek comment on whether adopting a composite approach will adequately capture performance for all categories of reportable programming that should be included on the standardized form, or whether there should be certain categories of programming subject to a more comprehensive reporting requirement. For example, in their recent *ex parte* proposing a composite week, PIPAC argues that local electoral affairs programming is important public interest programming and is critical to an informed citizenry. PIPAC suggests that broadcasters be required to disclose all local electoral affairs programming, defined as discussed below, when the lowest unit charge rules are in effect, *i.e.*, 45 days before a primary election and 60 days before a general election. PIPAC argues that the composite week mechanism, while otherwise sufficient, may not adequately capture local electoral issue coverage, as election timing may not coincide with the randomly selected reporting dates. We seek comment on this proposal, including projected burdens on broadcasters. If commenters believe this proposal to be overly burdensome, what alternatives would adequately reflect the extent of broadcasters' local electoral affairs programming? We seek to ensure that broadcasters are credited with their provision of this important public interest programming. For example, would reporting for some shorter period of time preceding an election be sufficient? Should the Commission consider any other exceptions to a composite week reporting schedule? Are there other categories of programming that should be subject to an enhanced reporting requirement?

21. Program and segment reporting. We seek comment on whether reporting should be done on a program or program segment basis. Form 355 required reporting on all programs or program segments aired during the quarter for each programming category listed. We seek comment on what level of reporting is most useful, and whether the benefits of the more granular program segment reporting outweigh the burdens it places on broadcasters. What level of reporting granularity is necessary to provide meaningful information to the public and the research community? Do broadcasters currently retain their programming information in a manner that

would enable reporting on a program segment basis, or would new programming retention techniques be required? For example, do broadcasters retain information about the length of each program segment within each news program, *i.e.* the length of each story? How should the term “program segment” be defined for purposes of the reporting requirement? PIPAC asserts that each of the reporting categories should be reportable by program segment. They assert that information will be more useful if it is reported on a more granular level. They assert that this level of specificity is necessary for local news reporting, since some stories reported on the local news are more national in character, and would not fit in the local news reporting category, as it does not pertain to the local community of license. We seek comment on these assertions.

2. Reporting Categories

22. In the 2000 NPRM, we tentatively concluded that the standardized form should require reporting on specified categories of programming, noting that specified categories were necessary because the current issues/programs lists permit such an assortment of information that the public may have difficulty determining the extent to which the station is serving the public interest. The Commission specifically noted the categories of programs proposed by the Presidential Advisory Committee on the Public Interest Obligations of Digital Broadcasters, which they recommended to augment and standardize the reporting about stations’ public interest programs and activities. The Committee proposed to include the following categories: local and national news programming, local and national public affairs programming, programming that meets the needs of underserved communities, programming that contributes to political discourse, other local programming that is not otherwise addressed in the form, and public service announcements. In response to the NPRM, PIPAC submitted a proposed standardized form suggesting use of the following categories: local civic programming, local electoral affairs programming, public service announcements, paid public service announcements, independently produced programming, local programming, underserved communities, and religious

programming. Definitions were included with each of these categories. The Commission included the categories and definitions proposed by PIPAC in Form 355.

23. We disagree with the Enhanced Disclosure reconsideration petitioners who argue that the standardized reporting categories impose *de facto* quantitative programming requirements or pressure stations to ensure carriage of some amount of programming that falls within government-preferred categories. We stress that, as the Commission noted in the Report and Order, the standardized form does not require broadcasters to air any particular category of programming or mix of programming types. Nor do we contemplate imposing any such requirements. This will be merely be a replacement reporting requirement, which the Commission has authority to impose, and we believe it will have the important benefit of arming consumers with accurate information on which to base their viewing decisions. We seek comment on these tentative findings.

24. Several petitions for reconsideration raised issues about the particular reporting categories adopted in the Report and Order, arguing that they were confusing, burdensome, and unworkable. We have vacated Form 355 as adopted, and agree that it would be useful to take a fresh look at the categories and definitions that should be included on the form. We want to ensure that the form collects information that is relevant to the public's and our analysis of stations' service to their communities. In addition, it is essential to our goal of ensuring the availability of uniform and consistent data that broadcasters be able easily to categorize programming for inclusion on the form.

25. PIPAC has recently proposed a new sample form, which is available at <http://www.savethenews.org/sample-form>. We are beginning anew our attempt to create a standardized form, including which programming categories to consider. However, in order to guide the discussion in this proceeding, we address below the categories now proposed by PIPAC and seek comment on their proposed form. Are there any categories identified on the

newly proposed form that are unnecessary or could otherwise be deleted? What, if any, additional categories should be included? We note that in response to the 2000 NPRM, the Commission received very little comment on specific programming categories; rather, most commenters focused on the merits, or lack thereof, of requiring a standardized form. We urge commenters to provide specific suggestions about the newly proposed reporting categories so that we can include those most relevant and useful for broadcasters and the public alike.

26. We recognize that some programs or program segments could be included in multiple categories. We propose that a program or segment be includable in only one category. This will both ease the reporting burdens and will ensure that any quantitative analyses accurately reflect the amount of time devoted to public interest programming. We seek comment on whether further clarification would be needed among the categories discussed below, and any other proposed categories, to guide broadcasters in categorizing their programming and/or whether other reporting categories should be adopted with additional instructions.

27. Local News. We seek comment on reporting requirements for news. PIPAC proposes that we include a local news category. In the Report and Order, Questions 2(a), (b) and (c) of Form 355 required reporting with respect to national news, local news produced by the station, and local news produced by an entity other than the station; all categories were described as including national and local programs or segments that include significant treatment of community issues. In a petition for reconsideration, Joint Broadcasters raised concerns that the definition of “news” is vague because newscasts and other programs, such as nationally syndicated talk shows, often include significant treatment of community issues. PIPAC recommends streamlining the news reporting requirement to just local news, and provides the following definition: “Programming that is locally produced and reports on issues about, or pertaining to, a licensee’s local community of license.” We seek comment on this proposed category and proposed definition. Does this definition resolve the concern expressed by Joint

Broadcasters? Is it an otherwise workable definition? What constitutes an “issue” in this definition? Would a program about an issue not specific to a community but of interest to the community be covered by this definition as long as it was locally produced? Are there alternative definitions of local news that we should consider?

28. Local Civic/Governmental Affairs. We seek comment on reporting requirements for civic and governmental affairs. PIPAC proposes a local civic/government affairs reporting category. In the Report and Order, Question 2(d) of Form 355 required reporting with respect to local civic affairs. PIPAC proposes retaining that category and provides the following definition, which is largely taken from the Form 355 local civic affairs definition: “broadcasts of interviews with or statements by elected or appointed officials and relevant policy experts on issues of importance to the community, government meetings, legislative sessions, conferences featuring elected officials, and substantive discussions of civic issues of interest to local communities or groups.” We seek comment on this proposed category and definition. Is this definition, or any portion of it, overly vague? What types of programming would qualify as “substantive discussions of civic issues of interest to local communities or groups”? Are there alternative definitions of local civic/governmental affairs programming that we should consider?

29. Local Electoral Affairs. We seek comment on reporting requirements for electoral affairs. PIPAC also proposes a local electoral affairs category. In the Report and Order, Question 2(e) of Form 355 required reporting with respect to local electoral affairs. PIPAC proposes retaining that category and provides the following definition, which is largely taken from the Form 355 local electoral affairs definition: “Local electoral affairs programming consists of candidate-centered discourse focusing on the local, state and United States Congressional races for offices to be elected by a constituency within the licensee’s broadcast area. Local electoral affairs programming includes broadcasts of candidate debates, interviews, or statements, as well as substantive discussions of ballot measures that will be put before the voters in a forthcoming

election.” We seek comment on this proposed category and definition. Is this definition, or any portion of it, overly vague? If so, how should the definition be refined? Are there alternative definitions of local electoral affairs programming that we should consider?

30. Closed Captioning and Video Description. We seek comment on reporting requirements regarding services provided to the disability community. On Form 355, as adopted in the Report and Order, Question 4 required reporting the number of hours of programming provided with closed captioning and video description. Reconsideration petitioners asserted that reporting on closed captioning provides little public benefit, and that any benefit is outweighed by the record-keeping burden imposed on broadcasters. Petitioners also argued that the requirement contravened the Commission’s prior stance that such reporting is both unnecessarily burdensome and administratively cumbersome. Petitioners argued that, because the Commission provided no reason for changing its position on closed captioning reporting, the requirement was arbitrary and capricious. They also argued that it was inappropriate to ask about video description, since at the time the Commission did not require that it be provided. Campaign Legal Center *et al.* argued that this reporting is necessary to ensure station compliance with the Commission’s closed captioning requirements, and to assist the disability community in finding stations that offer video description service. Telecommunications for the Deaf and Hard of Hearing (“TDI”) argued that the closed captioning reporting requirement should be maintained, stressing the importance of reporting to the millions of Americans who rely on closed captioning and have difficulty finding such programming. TDI also noted that the only current enforcement mechanism for ensuring closed-captioning is based on consumer reporting and consumer-derived complaints, and that a lack of benchmark reporting has seriously hampered the effectiveness of the captioning rules and compliance monitoring.

31. PIPAC now proposes streamlining these reporting requirements. As to closed captioning, PIPAC proposes that broadcasters be required to disclose whether the reported programming on

the form is closed captioned, and if so, the type of captioning, such as off-line, live, or electronic “newsroom technique,” which commonly follows teleprompter scripts. It also proposes that broadcasters report on all programming that is exempt from closed captioning, providing the date, time and length of the program (excluding commercials), and the reason for the exemption. We note that Commission regulations require all programming – with few exceptions – to be closed captioned as of January 1, 2010, and therefore expect the latter reporting requirement would presumably not be unduly burdensome. We seek comment on these proposals.

32. PIPAC also recommends implementing reporting requirements regarding video description, once the new rules mandated by the Communications and Video Accessibility Act go into effect. We note that the Commission recently adopted such rules, requiring the provision of 50 hours per calendar quarter of video-described prime time and/or children’s programming by full-power affiliates of the top four national networks located in the top 25 television markets, beginning July 2012. We seek comment on whether and to what extent broadcasters should be required to report on their video description offerings and, if so, how such a reporting requirement should be framed and implemented, given the limited nature of this programming requirement and the need for viewers to have access to information about which programs are video described. Should broadcasters be required to report all of their video description offerings?

33. Emergency Accessibility Complaints. We seek comment on reporting requirements regarding emergency accessibility. Question 5 of Form 355, as adopted in the Report and Order, required reporting with respect to all emergency information and whether that information was available to persons with disabilities. PIPAC now proposes that broadcasters report only the number of complaints that a station receives alleging that its emergency programming was not accessible to people with disabilities. PIPAC claims that such reporting will be less burdensome than the requirements in Form 355 but will assist the public and the Commission in determining the extent to which broadcasters are transmitting emergency information in a way that can be

understood by people with disabilities, as required. We recognize that the fact that a consumer has complained to a station does not necessarily mean that a licensee has violated a rule, but, as noted by PIPAC, a large number of reported complaints may indicate a compliance issue. We seek comment on this proposal, as well as other alternatives.

3. NCE Exemption

34. The reporting requirements adopted in the Report and Order applied to both commercial and non-commercial broadcasters. In a petition for reconsideration, the Association of Public Television Stations and the Public Broadcasting Service were joined by noncommercial educational (NCE) licensees (collectively NCEs) in arguing that they should be exempted from the standardized disclosure requirement, so they would not need to divert scarce resources from their core public service activities. They argued that Form 355 failed to differentiate between the programming and practices of commercial and noncommercial television stations. NCEs asserted that the Commission has previously recognized the special status of these stations' noncommercial programming and exempted them from meeting certain requirements, such as the quarterly children's program reporting requirement. Public television licensees argued that exempting NCEs from reporting requirements is appropriate given their "long history of providing vast amounts of programming that is responsive to issues of importance to their local communities."

35. We appreciate that NCE licensees have limited resources and that their mix of programming may in some instances be more heavily weighted toward the categories of interest in this proceeding than is the programming on some commercial stations. But the goals underlying this proceeding – facilitating access to information on how licensees are serving the public interest and local communities, making broadcasters more accountable to the public, and providing the public with a better mechanism for reviewing a broadcaster's public interest programming and activities – apply equally to commercial and non-commercial licensees. In order to standardize

the review of television broadcast public interest programming and activities, we believe it is important to include all television broadcasters. We believe that much of the concern expressed by the NCE community will be allayed by our proposals only to require reporting on a sample basis, and to otherwise streamline the form. We seek comment on whether these measures are sufficient, or whether there are other ways to address NCE licensees' concerns.

4. Other Reporting Issues

36. General information. We also seek comment on the general information stations should be required to supply on the form. For instance, PIPAC proposes to streamline the Form 355 to require the following information: call sign, channel number, facility ID, community of license, city, state, zip code, legal name of licensee, link to online public file, network affiliation, Nielsen DMA, commercial/NCE status, contact name and phone, and links to the most recent ownership reports and quarterly children's programming reports. We seek comment on this proposal and on whether it is over or under inclusive. In addition, if the Commission determines in the Enhanced Disclosure proceeding to host the online public file, will it be unnecessary to include links to the most recent ownership and children's television reports, since that information will be centrally available in the same location as the standardized form? Should we also require that stations provide their main studio address on the form? Is there any other general station information that should be included or excluded on the form?

37. Required information for each program and/or segment reported. We seek comment on the level of detail that should be required for each program or program segment that is reported. For each entry, PIPAC asserts that broadcasters should disclose: programming/segment title or topic; date/time aired; whether it aired on a primary or multicast channel; whether the material is first-run programming or previously aired on this or another station; the approximate length of the segment excluding interstitial commercials; whether the material reported, or any portion of it, is subject to the disclosure requirements of the Commission's sponsorship identification rules, and

if so, the sponsoring entity; and whether the material reported, or any portion of it, is the product of a local marketing agreement, local news service, or shared service agreement, or any other contractual arrangement or agreement between the licensee and another broadcast station or daily newspaper located within the licensee's designated market area, and if so the relevant agreement in the licensee's online public file. We seek comment on these proposed reporting elements, including proposed definitions for the agreements and contractual arrangements that are requested for identification. We seek comment in particular on the benefits of providing any specific piece of information per segment, as weighed against the burdens imposed on broadcasters by the requirement. Are any of these requirements overly broad? If so, can they be further defined or described to narrow the scope of the information required? Should any additional information be required, for example, a brief description of the program or programming segment and the issue it addresses?

38. Additional reporting. In addition to reporting on the categories discussed above, should broadcasters also have the option of disclosing other types of programming they provide to serve the needs and interests of their communities, if they wish to do so? Would an optional reporting opportunity provide useful information to the public and the Commission? Would an opportunity to include such information allow broadcasters to showcase their programming, or would the option merely increase the reporting burden? If an optional reporting requirement were adopted, would broadcasters find a drop-down menu with optional categories to be a useful reporting format?

39. PIPAC asserts that an optional reporting opportunity would allow broadcasters to showcase community reporting that does not fall into the specified categories. They assert that any voluntary information should be prominently labeled and that the reporting form should include a disclaimer proclaiming that the absence of voluntary information does not mean that a broadcaster is not providing such services. They recommend the following optional categories:

national news, international news, public service announcements (both paid and unpaid), religious programming, emergency programming, and any other category of programming that a broadcaster believes serves their public interest obligation. We seek comment on this proposal and any others. Are the optional categories useful, or should the list be supplemented or reduced? We also seek comment on definitions of the optional categories listed above as well as any others proposed by commenters.

40. Comments category. We seek comment on whether we should include a “comments” category, which would allow a licensee to highlight information that it believes is important, but is not included in the reporting categories. A “comments” category could provide licensees with space to discuss any mitigating factors or other information relevant to the information provided in the form. For example, a station that was off the air due to severe weather or technical issues on a day selected for reporting may wish to note that on its form. This category could also provide licensees with space to discuss any additional efforts they have made to serve their communities. We seek comment on this proposal. Would a comments category preclude the need for the type of optional reporting categories discussed above?

5. Data Format

41. The INC Report suggests that ensuring that as much data as possible is in a standardized, machine-readable format could enhance the usefulness and accessibility of such data. It recommends that “online disclosure should be done according to the principles advocated by experts on transparency: in standardized, machine readable and structured formats.” The INC Report generally notes that information collected by the government should be in formats “that make it easy for programmers to create new applications that can present the data in more useful formats, or combine one agency’s information with another,” and that “data releases should include an Application Programming Interface (API) that allows the data to be shared easily with other computers and applications.” PIPAC supports the INC Report suggestions, asserting that

“an online reporting mechanism that is part of a searchable, integrated database would not only reduce the burden of submitting this information, it would also provide communities and researchers with better access to it.” PIPAC notes that such a database would allow the public and researchers to download the data in raw form in its entirety to compare stations’ performances or perform other analyses. It also asserts that such a database should be connected electronically with the ownership data the Commission already collects, thus reducing further the broadcaster filing burden.

42. We agree that the new standardized disclosure form should be submitted as machine-processable in a standardized, machine-readable format that will be searchable so that the material can be easily analyzed. Such a format would help us accomplish the accessibility and accountability goals for which the form will be created. As recommended in the National Broadband Plan, we believe that as a government agency we should make information available in a machine-readable or otherwise accessible format where possible. We seek recommendations on how to implement this goal.

B. Radio

43. Given the Enhanced Disclosure NOI’s genesis in the DTV transition, the Report and Order was limited to reporting by television stations. The Commission later sought comment on implementing a standardized form requirement for analog and digital radio stations in the Further Notice of Proposed Rulemaking in the Digital Audio Broadcasting proceeding. We believe that we should eventually require radio licensees to replace their issues/programs lists with a standardized form as well. We also believe, however, that there may be benefits to requiring television licensees to implement enhanced disclosure requirements first. Television stations have been significantly more involved in considering these issues, from the Enhanced Disclosure NOI in 1999 through the 2007 Report and Order. Further, it may ease the initial implementation of a standardized form if we begin the process with the much smaller number of television

licensees. Finally, we foresee that there may be some radio-specific concerns that we will need to address prior to adopting disclosure requirements for radio stations.

IV. COST/BENEFIT ANALYSIS

44. In proposing rules to ensure that the public has adequate access to information about how broadcasters are serving their communities, we intend to look at the many factors involved in an effective disclosure form in order to ensure that the form serves its intended purpose without posing an undue burden on industry. There are two key criteria for the success of such an approach.

45. First, acknowledging the potential difficulty of quantifying benefits and burdens, we need to determine whether a disclosure form will significantly benefit the public and, in fact, clarify important issues for them. Second, we seek to maximize the benefits to the public while limiting as much as possible the burden of compliance on broadcasters. These costs and benefits can have many dimensions, some which may not be easy to quantify, including cost implications for industry, public interest benefits to viewers, and other less tangible benefits.

46. To address the first criterion, we seek comment on the best ways to ensure that the form discussed in this *NOI* will actually benefit the public. We seek comment on the extent to which the Commission and members of the public may be expected to utilize the additional information compiled in the form. Further, we seek comment on any considerations regarding the form that would increase the number of people who will benefit from such rules, and the nature of these benefits. In particular, we seek comment on the best ways to ensure that information is more readily accessible to the public. We seek information on whether, and to what extent, the accessibility of a standardized form is greater than an online issues/programs list. While we believe that a standardized form will increase the accessibility of information about how television stations serve their communities, we seek further suggestions for increasing accessibility.

47. To address the second criterion, we seek comment on the nature and magnitude of the costs and benefits of the new proposals on broadcasters. We recognize that these may vary by broadcaster, and seek comment on possible differential impacts, including size and type of broadcaster. We seek specific information about whether, how, and by how much broadcasters may be impacted differently in terms of the costs and benefits of our proposed rules. In response to the Report and Order several reconsideration petitioners argued that compliance would be overly burdensome and costly. To what extent will the new proposal to streamline the form and seek sample data impose less or more of a cost than the cost projections related to Form 355? Will the elimination of the issues/programs list and replacement with a streamlined disclosure online system reduce or increase burdens on broadcasters? Are there ways to further decrease costs of a standardized reporting form?

48. To the extent possible, we request comment that will enable us to weigh the costs and benefits associated with these proposed disclosure rules. We request that commenters provide specific data and information, such as actual or estimated dollar figures for each specific cost or benefit addressed, including a description of how the data or information was calculated or obtained and any supporting documentation or other evidentiary support. We understand that it may be difficult to place a dollar figure on the benefits of a standardized form, but seek input on the benefits of such a form. We also seek information regarding the burden of compiling the issues/programs list and to what extent the standardized form would either reduce or increase the burden on broadcasters. All comments will be considered and given appropriate weight. Vague

or unsupported assertions regarding costs or benefits generally can be expected to receive less weight and be less persuasive than more specific and supported statements.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch,
Secretary.

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